

August 2, 2019

Lundgren Family Ltd Partnership
588 E Chewack Rd
Winthrop, WA 98862

Re: Water Right Claim No. S4-300641CL

This letter is to inform you of a restriction on water use associated with the above-referenced water right claim. This claim was filed during the third opening of the State Water Rights Claims Registry, which was open from September 1, 1997, through June 30, 1998. Water right claims filed during this time period, referred to as 1998 claims, are subordinate to all water rights in existence prior to reopening of the claims registry. The law states in RCW 90.14.068(1):

A new period for filing statements of claim for water rights is established. The filing period shall begin September 1, 1997, and shall end at midnight June 30, 1998. Each person or entity claiming under state law a right to withdraw or divert and beneficially use surface water under a right that was established before *the effective date of [the] water code established by chapter 117, Laws of 1917, and any person claiming under state law a right to withdraw and beneficially use groundwater under a right that was established before **the effective date of the groundwater code established by chapter 263, Laws of 1945, shall register the claim with the department during the filing period unless the claim has been filed in the state water rights claims registry before July 27, 1997. A person who claims such a right and fails to register the claim as required is conclusively deemed to have waived and relinquished any right, title, or interest in the right. A statement filed during this filing period shall be filed as provided in RCW 90.14.051 and 90.14.061 and shall be subject to the provisions of this chapter regarding statements of claim. **This reopening of the period for filing statements of claim shall not affect or impair in any respect whatsoever any water right existing prior to July 27, 1997. A water right embodied in a statement of claim filed under this section is subordinate to any water right embodied in a permit or certificate issued under chapter 90.03 or 90.44 RCW prior to the date the statement of claim is filed with the department and is subordinate to any water right embodied in a statement of claim filed in the water rights claims registry before July 27, 1997** (emphasis added).

Washington, like most western states, adopted the prior appropriation doctrine when the Water Code (chapter 90.03 RCW) was enacted. Under the prior appropriation doctrine, the date on which water was first put to beneficial use (pre-Water Code) or the date on which a water right application was submitted determines a water right's priority. During times of water scarcity, senior water rights (those with the oldest priority dates) must be satisfied before junior water rights can be exercised.

What this means is that the water right claim referenced above is junior to all water rights, including minimum instream flows adopted in administrative rules, in existence prior to July 27, 1997. Although Ecology has not routinely enforced this in the past, we will begin issuing curtailment orders against 1998 claims as is currently done with state issued water rights junior to minimum instream flows requiring water use to cease when instream flow targets are not met. You are receiving this notification letter to inform you how Ecology intends to manage 1998 claims beginning in 2020.

Please let me us know if you no longer own the property where water use under the claim occurred or if the water use has discontinued. If you have any questions you may contact Mark Schuppe at mark.schuppe@ecy.wa.gov or at (509) 454-4258.

Sincerely,

A handwritten signature in blue ink that reads "Mark C. Schuppe". The signature is fluid and cursive, with the first name "Mark" being the most prominent.

Mark C. Schuppe, Watermaster
Water Resources Program
Department of Ecology

MS:FG/190801
WR Doc ID: 4394333

August 2, 2019

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Mark C. Schuppe, Watermaster
Water Resources Program
Department of Ecology

MS:FG/190801
WR Doc ID: 4394351

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WR Doc ID: 2088744